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OFFICE OF PETITIONS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent

In re patent application of: FOSTER et al.

Serial No.: 09/679,643

Attn: Customer Service Center

Filed: 10 October 2000

Initial Patent Examining Div.

For: S. AUREUS FIBRINOGEN BINDING PROTEIN... Docket #: P06282US02/BAS

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
BASED ON FAILURE TO RECEIVE OFFICE ACTION
(UNDER MPEP § 711.03(C)(II))

Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

S I R:

Pursuant to MPEP § 711.03(c)(II), the undersigned hereby petitions to have the abandonment of the above-identified application withdrawn. This petition is based on the failure of the undersigned to receive the Office communication which was not responded to.

The undersigned has just received a NOTICE OF ABANDONMENT dated May 28, 2004 indicating that the above-identified application has been abandoned for failure to respond to a NOTICE TO FILE MISSING PARTS dated **December 7, 2000** within the statutory period required by the NOTICE TO FILE MISSING PARTS. However, the undersigned hereby states that the referenced NOTICE TO FILE MISSING PARTS was never received. The non-receipt of the NOTICE TO FILE MISSING PARTS is evidenced by the attached copy of the firm docket for January 7, 2001 when the response due date for the missing parts would have been docketed. The undersigned has also searched the application file of the above application and states that no NOTICE TO FILE MISSING PARTS

or evidence of a receipt thereof is found in the file; and in addition a check of the docket records also fails to show any evidence that the NOTICE TO FILE MISSING PARTS was received.

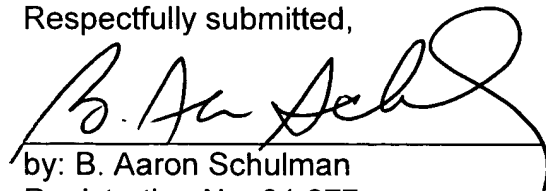
It will further be noted that on December 7, 2001, December 9, 2002, April 18, 2003 and May 18, 2004, Status Inquiries were filed in this application in response to a docket entry evidencing a lack of any Office Action from the Patent Office. In addition, the applicant filed an Information Disclosure Statement on January 19, 2001.

Obviously, the undersigned would not have inquired concerning the status of the application or filed an Information Disclosure Statement if a NOTICE TO FILE MISSING PARTS had been received and not responded to as the undersigned would have appreciated that the application was abandoned.

In an effort to obtain the status of the application, Applicant checked PAIR on May 24, 2004 (copy enclosed). No entry is shown for the Notice of Missing Parts. On June 4, 2004, after receiving the Notice of Abandonment, Applicant again checked PAIR and noted the Abandonment entry (copy enclosed).

In view all of the above which is attested to by the undersigned, it is evident that the NOTICE TO FILE MISSING PARTS was never received by applicant or his representatives, so that immediate withdrawal of the Notice of Abandonment is proper and further processing of the application is solicited.

Respectfully submitted,



by: B. Aaron Schulman
Registration No. 31,877

Date: June 28, 2004

STITES & HARBISON PLLC • 1199 North Fairfax St. • Suite 900 • Alexandria, VA 22314



DAC 18

Customized PTO/SB/21 (04-04)

| | | |
|--|----------------|----------------|
| TRANSMITTAL FORM (for all correspondence after initial filing) | Application # | 09/679,643 |
| | Confirmation # | |
| | Filing Date | 5 October 2000 |
| | First Inventor | FOSTER et al. |
| | Art Unit | |
| Total number of pages in this submission = | Docket # | P06282US02/BAS |

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| ENCLOSURES (check all that apply) | |
|--|---|
| <input checked="" type="checkbox"/> Fees calculated below Amendment/Reply including Attachment(s) After Final Amendment/Reply including Attachment(s) Extension of Time Petition <input checked="" type="checkbox"/> Petition to Withdraw Holding of Abandonment w/attachments | <input type="checkbox"/> Response to Missing Parts/Incomplete Appl. Certified Copy of Priority Document(s) Information Disclosure Statement Drawing(s) Terminal Disclaimer |

| FEES CALCULATION: For claims if required and/or other fees as shown below: | | | | |
|--|-----|---------------------|---------------|-----------------|
| | NOW | Previously Paid For | Present Extra | Rate |
| TOTAL CLAIMS | | | | X \$ 18 = |
| INDEP. CLAIMS | | | | X \$ 86 = |
| TOTAL OF ABOVE CLAIMS FEES = | | | | |
| Reduction by 1/2 for small entity status of applicant | | | | |
| SUBTOTAL = | | | | |
| Fee for extension of time (per attached Petition) | | | | |
| <input checked="" type="checkbox"/> Petition fee | | | | 130.00 |
| TOTAL OF ALL FEES = | | | | \$130.00 |

- ☒ A CREDIT CARD PAYMENT FORM (PTO-2038) in the amount of \$ 130.00 is enclosed. If no payment or an insufficient payment is enclosed and a fee is due in connection herewith, the Commissioner is authorized to charge any fee or additional fee due in connection herewith to Deposit Account No. 12-0555.
- ☒ In the event that a petition for extension of time is required to be submitted herewith and that a separate petition is not submitted herewith, applicant hereby petitions under 37 CFR 1.136(a) for an extension of time of as many months as are required to render this submission timely. Any fee is authorized above.

Date: 28 June 2004

By: B. Aaron Schulman
Registration No.: 31,877

STITES & HARBISON PLLC ♦ 1199 North Fairfax St. ♦ Suite 900 ♦ Alexandria, VA 22314
TEL: 703-739-4900 ♦ FAX: 703-739-9577

06/30/2004 YPOLITE1 00000041 09679643

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UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|--------------------|-----------------------|-----------------------|------------------------|
| 09/679,643 | 10/05/2000 | Timothy Jmaes Foster | P0628US02/BAS |

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JUL 01 2004

OFFICE OF PETITIONS

CONFIRMATION NO. 8447

**ABANDONMENT/TERMINATION
 LETTER**



OC000000012806070

00881
 STITES & HARBISON PLLC
 1199 NORTH FAIRFAX STREET
 SUITE 900
 ALEXANDRIA, VA 22314

Date Mailed: 05/28/2004

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 12/07/2000.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

*A copy of this notice **MUST** be returned with the reply.*

Customer Service Center
 Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE

L & T#

P06282US02

PRINTED ON: 06/02/2004

| | | | | | | | |
|---------|-----------|-------------------------------------|------------|---|-------------------|------------|------------|
| COUNTRY | US | UNITED STATES | TITLE | | PRIOR | 08/22/1994 | |
| NEW/CON | DIV | SERIAL# | 09/079,643 | S. AUREUS FIBRINOGEN BINDING PROTEIN GENE | MAIL | | |
| RELATED | P06282US1 | PATENT# | | | FILE | 10/05/2000 | |
| TYPE | UTL | STATUS | PENDING | | PUBL | | |
| CLIENT | 1507 | INHIBITEX, INC. | 1 | CREF | S. AUREUS FIBRINO | 1ST | 08/22/1994 |
| AGENT | US10 | Stites & Harbison PLLC - Alexandria | | AREF | | EXP | 08/22/2014 |

| ID | O | ACTION | BASE | DUE IN | DUE | EXTNS | FINAL | EXT | RESPONSE | CALL UP | 1 | 2 | P |
|--|---|----------------------|------------|--------|-----|------------|-------|------------|----------|------------|---|---|-------|
| FN | N | FILE DIV APPLICATION | 08/20/2000 | 46 | D | 10/05/2000 | | 10/05/2000 | 0 | 10/05/2000 | 1 | M | Y Y Y |
| PC | N | POST CARD CHECK | 10/05/2000 | 1 | M | 11/05/2000 | | 11/05/2000 | 0 | 10/16/2000 | 0 | M | N N Y |
| RS | N | SES/REFUND DUE | 10/05/2000 | 3 | M | 01/05/2001 | | 01/05/2001 | 0 | 12/22/2000 | 1 | M | Y Y Y |
| DS | N | INF DISCLOSURE STMT | 10/05/2000 | 106 | D | 01/19/2001 | 0 | 01/19/2001 | 0 | 01/18/2001 | 1 | M | N N Y |
| DS | Y | INF DISCLOSURE STMT | 01/19/2001 | | | | | | | | | | |
| | N | FILE SEQUENCE LISTIG | 12/07/2000 | 2 | M | 02/07/2001 | 4 | 06/07/2001 | 1 | 03/07/2001 | 1 | M | Y Y Y |
| DONE IN PREVIOUS CASE PER BAS/LLD/JB | | | | | | | | | | | | | |
| FS | N | FILG RCPT STATUS CHK | 10/05/2000 | 6 | M | 04/05/2001 | 3 | 07/05/2001 | 0 | 12/07/2000 | 1 | M | N N Y |
| RF | N | RECVD REFUND? | 12/22/2000 | 4 | M | 04/22/2001 | 6 | 10/22/2001 | 2 | 05/22/2001 | 1 | M | Y Y Y |
| NC | N | NOTIFY CLIENT OF FF | 10/05/2000 | 9 | M | 07/05/2001 | 2 | 09/05/2001 | 2 | 08/06/2001 | 1 | M | Y Y Y |
| FF | N | FOREIGN FILE ENDS | 10/05/2000 | 12 | M | 10/05/2001 | 0 | 10/05/2001 | 0 | 10/05/2001 | 3 | M | Y Y Y |
| RO | N | RECVD 1ST OA? | 12/07/2000 | 12 | M | 12/07/2001 | 1 | 01/07/2002 | 1 | 12/07/2001 | 1 | M | Y Y Y |
| SR | N | STATUS REQUEST | 12/07/2001 | 12 | M | 12/07/2002 | 1 | 01/07/2003 | 1 | 12/09/2002 | 1 | M | N N Y |
| SR | N | STATUS REQUEST | 12/09/2002 | 12 | M | 12/09/2003 | 1 | 01/09/2004 | 0 | 04/18/2003 | 1 | M | N N Y |
| PTO TELEPHONE REGARDING STATUS THE CASE. | | | | | | | | | | | | | |
| SR | N | STATUS REQUEST-4TH | 04/18/2003 | 12 | M | 04/18/2004 | 1 | 11/18/2004 | 1 | | 1 | M | N N Y |
| | y | NOT. OF ABANDDONMENT | 05/28/2004 | | | | | | | | | | |
| | N | REVIVE APPLICATION | 05/28/2004 | 1 | M | 06/28/2004 | | 06/28/2004 | 0 | | 1 | M | Y Y Y |

INVENTORS

FOSTER ET AL

ASSIGNEES

THE PROVOST FELLOWS AND
SCHOLARS OF THE COLLEGE OF THE
HOLY AND UNDIVIDED TRINITY OF
QUEEN ELIZABETH NEAR DUBLIN

PRIOR APPLICATIONS

| REFERENCE# | CNTRY | SERIAL# | FILED | TITLE / DESCRIPTION | TYPE |
|------------|-------|------------|------------|---|------|
| P06282US1 | US | 09/421,868 | 10/19/1999 | S. AUREUS FIBRINOGEN BINDING PROTEIN GENE | APPL |

USER-DEFINABLE FIELDS

| | |
|-------|--|
| CSTM# | |
| LOC | |
| PBL# | |

PATENT FIELDS

| | | | |
|--------------|----|----------|------|
| SMALL ENTITY | NO | ART UNIT | 1645 |
| CLAIMS | | EXAMINER | |
| PUBLICATION# | | CONFIRM# | |

P06282US02

ENTERED

06/27/2000

MODIFIED

06/02/2004

BY

CAN

PAY

N

ATTORNEYS

BAS

/

BAS

/

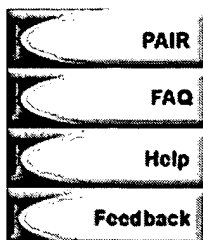
LM



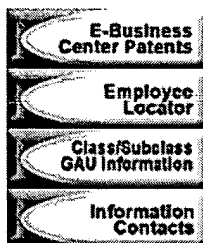
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PATENT APPLICATION INFORMATION RETRIEVAL



Other Links


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| Search results for application number: 09/679,643 | | | |
|---|---|----------------------------|---|
| Application Number: | 09/679,643 | Customer Number: | 881 |
| Filing or 371(c) Date: | 10-05-2000 | Status: | Abandoned -- Incomplete Application (Pre-examination) |
| Application Type: | Utility | Status Date: | 05-27-2004 |
| Examiner Name: | - | Location: | FILE REPOSITORY (FRANCONIA) |
| Group Art Unit: | 1645 | Location Date: | 06-02-2004 |
| Confirmation Number: | 8447 | Earliest Publication No: | - |
| Attorney Docket Number: | P0628US02/BAS | Earliest Publication Date: | - |
| Class/ Sub-Class: | 424/- | Patent Number: | - |
| First Named Inventor: | Timothy Foster, Dublin, (IE) | Issue Date of Patent: | - |
| Title Of Invention: | S. Aureus Fibrinogen binding protein gene | | |

Select Search Option

Continuity Data

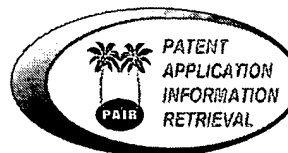
Search

| File History | |
|--------------|--|
| Date | Contents Description |
| 02-08-2001 | Abandonment -- During Preexam Processing |
| 04-25-2001 | Receipt of all Acknowledgement Letters |
| 12-06-2000 | Correspondence Address Change |
| 11-15-2000 | IFW Scan & PACR Auto Security Review |
| 10-05-2000 | Initial Exam Team nn |

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**PATENT APPLICATION INFORMATION RETRIEVAL**

| Search results for application number: 09/679,643 | | | |
|---|---|----------------------------|--|
| Application Number: | 09/679,643 | Customer Number: | 881 |
| Filing or 371(c) Date: | 10-05-2000 | Status: | Application Undergoing Preexam Processing |
| Application Type: | Utility | Status Date: | 10-05-2000 |
| Examiner Name: | - | Location: | OIPE - INITIAL EXAM MANAGER'S OFFICE, CP2-7D25 |
| Group Art Unit: | 1645 | Location Date: | 05-07-2004 |
| Confirmation Number: | 8447 | Earliest Publication No: | - |
| Attorney Docket Number: | P0628US02/BAS | Earliest Publication Date: | - |
| Class/ Sub-Class: | 424/- | Patent Number: | - |
| First Named Inventor: | Timothy Foster, Dublin, (IE) | Issue Date of Patent: | - |
| Title Of Invention: | S. Aureus Fibrinogen binding protein gene | | |

Search Options

| |
|------------------------------------|
| Continuity Data |
| Publication Review |

| File History | |
|--------------|--|
| Date | Contents Description |
| 04-25-2001 | Receipt of all Acknowledgement Letters |
| 12-06-2000 | Correspondence Address Change |
| 11-15-2000 | IFW Scan & PACR Auto Security Review |
| 10-05-2000 | Initial Exam Team nn |